

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
(FORT WORTH DIVISION)**

NEXTGEAR CAPITAL, INC. AND  
AUTOMOTIVE FINANCE  
CORPORATION,

Plaintiffs,

v.

DRUIEN, INC. D/B/A LAWTON AUTO  
AUCTION A/K/A LAWTON CACHE  
AUTO AUCTION, LISA DRUIEN,  
MICHAEL VERNON GARRISON D/B/A  
ROCK HILL USED CARS, AND  
EMMETT DRUIEN,

Defendants.

Civil Action No. 4:20-CV-959-BJ

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**JOINT REPORT CONCERNING IN-PERSON SETTLEMENT CONFERENCE**

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TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, NextGear Capital, Inc. (“NextGear”) and Automotive Finance Corporation (“AFC”) and collectively “Plaintiffs,” file this Revised Joint Report Concerning In-Person Settlement Conference pursuant to Fed. R. Civ. P. 16(b), the Scheduling Order of this Honorable Court entered on November 24, 2020 [Doc. # 18] (the “Scheduling Order”) and the order extending deadlines entered on March 11, 2021 [Doc. # 72]. The Scheduling Order required each party to file a brief written report setting out: (a) the date on which the settlement conference was held; (b) the persons present; (c) a statement regarding whether meaningful progress toward settlement was made; and (d) a statement regarding the prospects of settlement before trial. Accordingly, Plaintiffs respectfully respond to each of these requirements and respectfully set forth as follows:

1. The parties conducted an in-person settlement conference on **April 27, 2021.**

2. In attendance at the settlement conference were the following individuals:

- Christopher Arisco (counsel for Plaintiffs)
- Alan Padfield (counsel for Plaintiffs)
- Maria Patino (AFC Branch Manager – Dallas and representative of Automotive Finance Corporation)
- Maria Green (Director of Portfolio Management - representative for NextGear Capital, Inc.)
- Eric Brown (Senior Manager of Risk & Recovery – representative for NextGear Capital, Inc.)
- Michael Garrison (*pro se* defendant)
- Chad Cable (attorney assisting Michael Garrison during mediation only)
- Richard F. Tallini (attorney for Druien, Inc. d/b/a Lawton Auto Auction, Lisa Druien, and Emmett Druien)
- Emmett Druien (defendant and corporate representative of Druien, Inc.)
- Lisa Druien (defendant and corporate representative of Druien, Inc.)

3. Meaningful progress toward settlement was made with respect to Michael Garrison with respect to an agreed judgment that will fully resolve all of Plaintiffs' claims and causes of action against defendant Michael Garrison d/b/a Rock Hill Used Cars. The parties continue to work out minor details of the form of the Agreed Judgment, but Plaintiff expects it will be filing an Agreed Judgment in the near future. Although Plaintiffs did not settle with Druien, Inc., Lisa Druien, or Emmett Druien (the "Remaining Defendants"), the parties were able to narrow the factual and legal issues. Plaintiffs and the Remaining Defendants also attended mediation with Judge Jenevein the following day on April 28, 2021, but did not settle at mediation.

4. Plaintiffs have settled with Michael Garrison d/b/a Rock Hill Used Cars and expect to submit a proposed Agreed Judgment shortly. Although Plaintiffs and the Remaining Defendants were able to narrow the legal and factual issues during the April 27<sup>th</sup> settlement conference and later at the April 28<sup>th</sup> mediation with mediator Judge Jenevein, Plaintiffs and Remaining Defendants did not settle. Prospects for settlement may have been better had the Remaining Defendants complied with their discovery obligations pursuant to a prior order compelling the Remaining Defendants to provide substantive responses. Further, on April 15, 2021, Plaintiff served consolidated written discovery on the Remaining Defendants. The prospects for settlement may improve once the Remaining Defendants provide full and substantive responses to the consolidated discovery requests, which Plaintiff anticipates will further narrow the disputed factual and legal issues in this case and facilitate additional settlement discussions.

5. Plaintiffs do not anticipate settlement in the coming days or weeks unless a significant development or change in settlement position occurs.

JOINTLY SUBMITTED:

<p><b>PADFIELD &amp; STOUT, LLP</b></p> <p>By: <u>/s/ Christopher V. Arisco</u>  Mark W. Stout  State Bar I.D. # 24008096  Christopher V. Arisco  State Bar I.D. # 24064830  420 Throckmorton, Suite 1210  Fort Worth, Texas 76102  Phone: (817) 338-1616  mstout@padfieldstout.com  carisco@padfieldstout.com</p> <p><i>Attorneys for NextGear Capital, Inc. and  Automotive Finance Corporation</i></p>	<p><b>BAILEY &amp; GALYEN</b></p> <p>By: <u>/s/ Richard Fiory Tallini</u>  Richard F. Tallini  State Bar I.D. # 24093548  1300 Summit Avenue  Suite 650  Fort Worth, Texas 76102  Phone: (817) 276-6000  Fax: (817) 276-6010  rtallini@galyen.com</p> <p><i>Attorney for Defendants Druien, Inc.  Lisa Druien, and Emmett Druien</i></p>
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